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1	BEFORE THE FEDERAL ELECTION COMMISSION		
2 3 4 5 6 7	In the Matter of CASE CLOSURE UNDER THE MUR 5856 ENFORCEMENT PRIORITY PETER KUHNERT SYSTEM SENSITVE		
8 9	GENERAL COUNSEL'S REPORT		
0	Chillian Coulded Cities Cities		
1	Under the Enforcement Priority System, matters that are low-rated		
12			
13	forwarded to the Commission with a recommendation for dismissal. The Commission		
14	has determined that pursuing low-rated matters compared to other higher rated matters on the		
15	Enforcement docket warrants the exercise of its prosecutorial discretion to dismiss these		
16	cases.		
17	The Office of General Counsel scored MUR 5856 as a low-rated matter. In this ase,		
18	the complainant alleges that Peter Kuhnert, a write-in candidate for Maryland's 5th Distret		
19	congressional seat in the November 2006 general election, deposited "offensive and obscene		
20 ,	campaign literature" in her mailbox and failed to include the appropriate candidate		
21	authorization and disclaimers on the communication. A copy of the communication was		
22	attached to the complaint.		
23	The candidate maintains that he did not receive any contributions to his campaign,		
24	and only spent approximately \$500 of his own funds on the campaign. He further states that		
25	he never placed his campaign literature in anyone's mailbox.		

In light of the de minimis nature of the allegations presented in MUR 5856 and in

furtherance of the Commission's priorities and resources, relative to other matters pending on

the Enforcement docket, the Office of General Counsel believes that the Commission should

Case Closure Under EPS – MUR 366 General Counsel's Report Page 2 of 2

- 1 exercise its prosecutorial discretion and dismiss the matter. See Heckler v. Chaney, 470 U.S.
- 2 821 (1985).

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RECOMMENDATION

- The Office of General Counsel recommends that the Commission dismiss MUR
- 5 5856, close the file effective two weeks from the date of the Commission vote, and approve
- 6 the appropriate letters. Closing the case as of this date will allow CELA and General Law
- 7 and Advice the necessary time to prepare the closing letters and the case file for the public
- 8 record.

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14	Ce/11/07
15	Date /

BY:

Gregory R. Baker Special Counsel Complaints Examination & Legal Administration

Thomasenia P. Duncan

General Counsel

Jeff S. Jordan
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35 Attachment:

Narrative in MUR 5856

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Response filed: November 20, 2006

1 2 3 **MUR 5856** 4 5 Candace Hewitt 6 Complainant: 7 Peter Kuhnert 8 **Respondent:** 9 10 Allegations: Complainant alleges that Peter Kuhnert, a write-in candidate for 11 Maryland's 5th District congressional seat in the November 2006 general election, 12 deposited "offensive and obscene campaign literature" in her mailbox and failed to 13 include the appropriate candidate authorization and disclaimers. The communication in 14 question, a copy of which was attached to the complaint, consisted of a one-page flyer 15 that criticizes incumbent Congressman Steny Hoyer's position on abortion and gay 16 marriage and ends with the statement, "Send Hoyer's honchos a message—write in Pete 17 Kuhnert for Congress. He's the only pro-life and pro-marriage candidate running in 18 District 5. Please write in P. Kuhnert." The communication does not contain any 19 disclaimers or authorization language. 20 21 Response: Peter Kuhnert states that he was a candidate for Maryland's 5th Congressional 22 seat, but that he received no contributions for his campaign, and only spent 23 approximately \$500 of his own funds on the election. He did not have a treasurer. 24 Furthermore, he claims that he did not place any of his campaign literature in anyone's 25 26 mailbox. 27 28 Date complaint filed: October 23, 2006